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COMMONWEALTH OF VIRGINIA

STATE CORPORATION COMMISSION

AT RICHMOND, NOVEMBER 29, 1999

JOINT PETITION OF

BELL ATLANTIC CORPORATION

and

CASE NO. PUC990100

GTE CORPORATION

For approval of agreement
and plan of merger

ORDER APPROVING PETITION

On October 2, 1998, Bell Atlantic Corporation ("Bell Atlantic") and GTE Corporation ("GTE") (collectively "Petitioners") filed a joint petition requesting approval, pursuant to § 56-88.1 of the Code of Virginia, of a transaction that would result in GTE becoming a wholly owned subsidiary of Bell Atlantic. Bell Atlantic and GTE are, respectively, the parent companies of Bell Atlantic-Virginia, Inc. ("BA-VA"), and GTE South Incorporated ("GTE South"), both of which provide local exchange and intraLATA toll service in Virginia. The case was docketed as Case No. PUA980031.

The Commission entered its Final Order disapproving the Petitioners' proposed merger in Case No. PUA980031 on March 31, 1999, following a hearing. In this first merger Order, we found that the Petitioners had not provided sufficient information to

enable us to ". . . be satisfied that adequate service to the public at just and reasonable rates will not be impaired or jeopardized . . ." by granting the Petition.¹ We directed the Petitioners, upon our expectation that the Petition would be re-filed, to provide additional evidence or information in several important areas that we believed would be necessary for us to evaluate in order that we meet our statutory duty.

On May 28, 1999, Petitioners re-filed their Joint Petition, together with testimony and exhibits that were designed to address the shortcomings we found in their earlier filing. We entered a procedural Order on June 24, 1999, to establish the schedule for receipt of testimony and to set a hearing. Petitioners published appropriate notice of their application, as also directed in this Order. The case was heard by the Commission on October 25-26, 1999, and November 2-3, 1999.

During the several days of hearing, the parties, including the Petitioners, the Commission Staff, and Protestants -- MCI WorldCom, AT&T, and Sprint -- offered testimony of 28 witnesses and introduced 75 evidentiary exhibits to address whether the Petitioners had met their burden of proof and, if so, whether the Commission should impose conditions upon the merger in addition to those proposed by the Petitioners. Twelve public

¹ The quoted language is taken from § 56-90 of the Code of Virginia and constitutes the standard that must be met for approval of all petitions filed pursuant to the Utility Transfers Act.

witnesses also appeared and offered testimony. The parties filed post-hearing briefs and reply briefs.

NOW THE COMMISSION, having considered the evidence of record, the pleadings filed herein, and the applicable statutes and rules, is of the opinion and finds that the Joint Petition should be approved, subject to the conditions established herein. The Commission has also determined that it will take certain additional actions as described below.

The record as developed by the parties and the Staff addresses numerous items of considerable importance. The Commission finds that several issues argued in this case can be more efficiently considered in a number of other pending dockets and do not require us to impose additional conditions upon the Petitioners here, except to the extent set out below.

As an initial matter, the Commission has concluded that the issue of the appropriate level of BA-VA's and GTE South's access charges should, and will, be considered in two pending dockets, Case Nos. PUC960021 and PUC990043. We will issue procedural orders in these cases, or in another docket we may establish, within the next few weeks. We expect also to receive evidence in these proceedings regarding the proposal to establish LATA-wide call termination rates.

We were urged herein to re-open the alternative regulatory plans of BA-VA and GTE South as a condition of approval of their

proposed merger. We will not now take that step. However, we advise the Petitioners that it may well be necessary or appropriate to review those plans in light of the proposed merger at the conclusion of our examinations of their access charges, or perhaps in conjunction with these examinations.

Next, the Commission notes that GTE South is providing unbundled network elements and services under interim prices established in Case No. PUC970006, which remains pending. Upon appropriate request the Commission will consider establishing permanent prices for GTE South.

The Commission also notes that in Case No. PUC970146 it is considering revisions to its Rules Governing Service Standards for Local Exchange Telephone Companies. We will soon issue an order inviting further comments in that docket.

Regarding the issue of collocation, the Commission has established Case Nos. PUC960164 and PUC990101, and comments in these dockets will be filed on or before December 13, 1999.

Finally, in 1996, shortly after the enactment of the Telecommunications Act of 1996, 47 U.S.C. § 151 et seq., (the "Act"), the Commission established Case No. PUC960111, to investigate whether BA-VA has met the requirements set out in § 271 of the Act. On October 21, 1999, BA-VA filed its Motion in Support of Initiating Third-Party Testing. Preliminary comments on this motion were filed on November 19, 1999. The

Commission heard testimony and argument in the instant case related to the same issues we expect to address in Case No. PUC960111, regarding appropriate steps to take to ensure that BA-VA opens its market area to competition and enables others to make efficient use of its operations support systems. In the established case, we will take measures to secure such compliance.

We recognize GTE South is not required to comply with § 271 of the Act. The Commission received evidence in this case regarding whether to impose conditions upon the merger to ensure that GTE South opens its market area to competition and enables others to make efficient use of its operations support systems. We adopt the approach to this issue suggested by the Staff and will establish a collaborative committee, under the supervision of the Director of the Division of Communications, or his designee, to consider and recommend measures to the Commission on these and other issues, including appropriate remedies should the subject telephone companies fail to meet any performance standards ultimately adopted through the collaborative committee process. We will issue a separate order establishing a docket and procedural schedule on this matter expeditiously. We will order BA-VA and GTE South to designate representatives to participate in the collaborative committee. Each of the parties

hereto is also invited to participate in the collaborative committee's efforts.

The Petitioners, in their pre-filed direct and rebuttal testimony, proposed several conditions and made several commitments for our consideration. We will adopt several of these as proposed, and will modify others.

First, the Joint Petitioners promised to file a plan with the Commission to expand local calling areas in contiguous exchanges both within and between their respective service territories. We find this commitment, which was the subject of the comments of several of the public witnesses, to be appropriate. We will therefore direct the filing of such plan not later than 30 days following the consummation of the proposed merger. We note that this plan is subject to modification and subsequent approval as necessary.

To ensure that adequate service to the public at just and reasonable rates will not be impaired, we will extend the rate cap on basic local exchange telephone service provided by BA-VA until January 1, 2004, unless otherwise ordered by the Commission in any review of the BA-VA alternative regulatory plan. Further, we will impose a continuing moratorium on price increases for services classified by the BA-VA plan as "Discretionary" during any period in which BA-VA fails to attain satisfactory performance levels in any of the Commission's

service quality measurements. No month during which BA-VA has less than satisfactory performance levels in any service measurement shall be included in the calculation of permissible price increases pursuant to Paragraph 7 B 2 of the BA-VA plan.² This moratorium will also continue unless otherwise ordered by the Commission in any review of the BA-VA alternative regulatory plan.

With regard to the adequacy of GTE South's rates and services, we will require GTE South, as proposed by the Joint Petitioners, to eliminate the separate rate group elements for its Southwest Virginia service area within 90 days of the consummation of the proposed merger. Customers in the Southwest area will be migrated to the appropriate existing rate groups used for GTE South's other customers throughout the Commonwealth.

Further, we will direct GTE South to make its Custom Local Area Signaling Services ("CLASS") available to all its customers as soon as possible, but in no event later than 24 months after the merger. These advanced services should be made available to

² Paragraph 7 B 2 permits price increases for Discretionary service at the rate of .83% times the number of months since the last such increase, with a maximum increase in any year of 25 percent. BA-VA's voluntary proposal not to increase rates for Discretionary services during periods of less than satisfactory service necessarily requires that it not "bank" these months for use in calculating subsequent price increases.

customers in all areas of the state, including the many rural areas served by GTE South.

Not later than 30 days prior to the consummation of the proposed merger, BA-VA and GTE South will provide to the Division of Communications a full report of the "best practices" they have decided to adopt from one another, the target date for implementation of each such best practice, and an estimate of the expected savings that will result. We encourage the companies to give priority to unifying their practices with regard to interactions with the competitive local exchange carriers. Together with the list of adopted practices, the companies shall submit an analysis of whether and how each "best practice" will affect the provision of adequate service at just and reasonable rates. Subsequent to the initial report, additional reports shall be submitted every six months for a period of three years, and shall include an update of expected and realized savings for each best practice.

For each of the calendar years 2000-02, BA-VA and GTE South have committed to capital expenditures in Virginia at the levels achieved during the period 1996-98. BA-VA has additionally committed that in 2000 and 2001 its actual outlays for outside plant capital and expenses will equal, if not exceed, the actual amount it invested in 1998, the most recent year for which such information is available.

Based on the testimony, we will adopt these proposals, but we expressly determine that these levels of capital expenditures shall be a "floor." Our approval of this condition shall not preclude any determinations we might subsequently find necessary with regard to network expansion and modernization, particularly that of GTE South. The proposed investments shall be used for the expansion and modernization of the wireline telecommunications network.

The Commission is particularly concerned with the availability of services and service quality in Virginia. BA-VA and GTE South are directed to work with the Staff to develop an annual report detailing their forecasted and actual capital expenditures and availability of advanced services to consumers in Virginia. These reports will be required to be filed annually by the end of the first quarter of every year beginning in 2000. At a minimum, the report should include: (1) budgeted capital expenditures and maintenance for the current year and succeeding year; (2) actual capital expenditures and maintenance for the preceding year; (3) identification and description of proposed capital investment projects exceeding \$100,000 for the current year; (4) current availability of custom calling services by exchange; (5) current availability of CLASS services by exchange; (6) current availability of broadband and high speed access services by type (i.e., ISDN, ADSL) by exchange,

disaggregated between residential and business customers; and (7) additional information as requested by the Staff. Further, the companies and Staff shall develop a means for the Commission to compare the availability of advanced services in the Commonwealth to the availability of such services in the other jurisdictions where Bell Atlantic and GTE provide service.

Both BA-VA and GTE South have previously been granted limited exemptions from the filing and pre-approval requirements of the Utility Affiliates Act, § 56-76 et seq. of the Code of Virginia. We find it appropriate to continue the existing exemptions but will not, at this time, extend those exemptions to include direct transactions between GTE South and BA-VA, or transactions between either company and the affiliates of the other. In other words, for the present, we will require all transactions that involve GTE South or any of its affiliates on the one hand and BA-VA or any of its affiliates on the other hand to be filed for prior Commission approval. Such requirement is not intended to foreclose our consideration of modifications that might impose a minimal exemption requirement following an appropriate period of analysis of such transactions.

GTE South has committed to notify the Division of Public Utility Accounting at least 90 days in advance of the proposed effective date of any change in any of its accounting policies

and to provide an estimate of the effect of such change on its books of account. We will adopt this proposal and apply it to BA-VA as well.

Next, upon the consummation of the proposed merger, both GTE South and BA-VA have committed to adopt any non-price contract term in any future interconnection agreement entered into by the other company, if the negotiations which led to the adoption of such term began after the Commission's approval of the proposed merger and the other company's network can technically accommodate the request. We will require the companies to adopt any non-price contract term contained in any interconnection agreement entered into by either of them subsequent to the date of this Order, provided that their network can technically accommodate the request. We will require the companies as well to adopt any such term adopted in Virginia as the result of a Commission arbitration order entered after the date of this Order.

Finally, BA-VA and GTE South have committed to submit annual reports to the Division of Public Utility Accounting that show actual costs and savings associated with their merger. Both companies shall make such reports for a minimum of 5 years. The reports shall provide a detailed and documented account of the merger costs, merger implementation costs, and merger savings along with detailed explanation and documentation of all

allocations made. GTE South shall book its merger and merger implementation costs to ensure that such costs do not exceed merger savings in any year. With respect to any GTE South proceedings, including its Annual Informational Filings, GTE South shall have the burden of proving merger and merger implementation costs, merger savings, and all allocations.

In addition to the foregoing, BA-VA and GTE South made certain other commitments in their testimony and accompanying materials that we expect to be honored, but which do not require action by us. There are, however, two remaining matters that should be noted. First, following our Order in Case No. PUA980031, the Joint Petitioners filed a petition with the Federal Communications Commission ("FCC") to obtain the necessary relief to permit GTE South to continue to provide its interLATA local calling plans. The cessation of such service would constitute an impermissible impairment of service, and the Joint Petitioners have pledged not to consummate the proposed merger unless such services can continue to be provided after the merger.

Lastly, the Joint Petitioners acknowledge that GTE Long Distance will be unable to continue to provide interLATA interexchange service after the merger unless the FCC grants it such authority. If authority is not granted, we will expect GTE

Long Distance to proceed immediately to assist its customers in Virginia to obtain such service from other qualified carriers.

Based upon the conditions and actions described above, the Commission finds the Joint Petition should be approved.

Accordingly,

IT IS HEREBY ORDERED THAT:

(1) The Joint Petition is approved, as modified and subject to the conditions established herein.

(2) Not later than thirty (30) days following the consummation of the proposed merger, BA-VA and GTE South shall file their plan for expansion of their local calling areas.

(3) BA-VA shall not raise prices for Basic Local Exchange Telecommunications services, as designated pursuant to its Plan for Alternative Regulation, adopted in Case No. PUC930036, earlier than January 1, 2004, unless otherwise ordered by the Commission following a review of its Plan for Alternative Regulation.

(4) BA-VA shall not raise prices for Discretionary Services, as designated in its Plan for Alternative Regulation, adopted in Case No. PUC930036, at any time that it has failed to attain satisfactory performance levels in any of the Commission's service quality measurements, and no period of such prohibition shall be included in the calculation of permissible price increases set out in Paragraph 7 B 2 of that plan. This

condition shall continue unless otherwise ordered by the Commission following a review of its Plan for Alternative Regulation.

(5) Not later than ninety (90) days following consummation of the proposed merger, GTE South shall file with the Division of Communications tariffs that eliminate the separate rate group elements for its Southwest Virginia exchanges.

(6) Not later than twenty-four (24) months following consummation of the proposed merger, GTE South shall make Custom Local Area Signaling Services available throughout its service areas in Virginia.

(7) Not later than thirty (30) days prior to the consummation of the proposed merger, BA-VA and GTE South shall submit to the Division of Communications a report detailing the best practices each has adopted from the other, as set out herein, together with an analysis of whether and how such adoption will affect the provision of adequate service at just and reasonable rates, and shall thereafter semi-annually submit reports that include updates of the expected and realized best practice savings.

(8) For calendar years 2000, 2001 and 2002, BA-VA and GTE South shall make investment in the expansion and modernization of their service networks as set out herein.

(9) Beginning in the first quarter of the year 2000, and on similar calendar date for each succeeding year, BA-VA and GTE South shall submit the report of their planned and prior year investment and maintenance activity, as set out herein.

(10) BA-VA and GTE South shall file all affiliate agreements between themselves and affiliates of the other, as set out herein, for prior Commission approval pursuant to § 56-77 of the Code of Virginia, until further ordered.

(11) BA-VA and GTE South shall notify the Division of Public Utility Accounting not less than ninety (90) days prior to the proposed effective date of any change in any of its accounting policies and provide an estimate of the effect of such change on its books of account.

(12) Upon consummation of the proposed merger, BA-VA and GTE South shall adopt any requested non-price term contained in any interconnection agreement of the other, as set out herein.

(13) BA-VA and GTE South shall submit to the Division of Public Utility Accounting annual reports that provide the actual costs and savings realized by their merger and shall adopt the booking methodology referenced herein.

(14) The Joint Petitioners shall not consummate the proposed merger unless the FCC authority to continue GTE South's interLATA local calling plans is received.

(15) There being nothing further to come before the Commission, this matter is dismissed.